

## HOUSE BILL NO. 546

INTRODUCED BY R. MAEDJE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MAY NOT ACQUIRE PROPERTY UNTIL THE STATEWIDE ADJUDICATION OF WATER RIGHTS IS COMPLETED; ALLOWING THE DEPARTMENT TO EXPEND PROPERTY ACQUISITION MONEY ONLY TO ADJUDICATE AND FINALIZE DEPARTMENTAL WATER RIGHTS UNTIL THE STATEWIDE ADJUDICATION OF WATER RIGHTS IS COMPLETED; AMENDING SECTION 87-1-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-1-209, MCA, is amended to read:

**"87-1-209. Acquisition and sale of lands or waters.** (1) ~~The~~ Subject to the provisions of subsection (7), the department, with the consent of the commission and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

(a) for fish hatcheries or nursery ponds;

(b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the commission, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of historical or archaeological sites that are threatened with destruction or alteration.

(3) (a) The department, with the consent of the commission, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b), without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the commission, may convey department lands and water rights for full market value to other governmental entities without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) The department shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(5) The department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the

1 department and appropriated by the legislature.

2 (6) The department is authorized to enter into leases of land under its control in exchange for services  
3 to be provided by the lessee on the leased land.

4 (7) The department may not acquire property pursuant to subsection (1) until the statewide adjudication  
5 of water rights is completed. Until the statewide adjudication of water rights is completed, money that the  
6 department is authorized by law to expend for the acquisition of property pursuant to subsection (1) may be  
7 expended only to adjudicate and finalize departmental water rights."

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9 NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured,  
10 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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12 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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